

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 12-16 are currently being prosecuted. Claims 12-15 have been amended and claims 1-11 have been canceled. Claims 12 is independent. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth herein.

Election/Restriction Requirement

The Applicants acknowledge the finality of the Examiner's Restriction Requirement. Claims 1-11 have been canceled. The Applicants reserve the right to file a divisional application at a later date if they so desire.

Claim for Priority

It is gratefully acknowledged that the Examiner has recognized the Applicants' claim for foreign priority. In view of the fact that the Applicants' claim for foreign priority has been perfected, no additional action is required from the Applicants at this time.

Drawings

The Official Draftsperson has not approved the formal drawings submitted by the Applicants. It is respectfully submitted that the drawings comply with the requirements of the USPTO. If the Official Draftsperson has any objections to the formal drawings, s/he is

respectfully requested to contact the undersigned as soon as possible so that the appropriate action may be taken.

Acknowledgement of Information Disclosure Statement

The Examiner has acknowledged receipt of the Information Disclosure Statement filed on March 1, 2001. An initialed copy of the Form PTO-1449 has been returned by the Examiner. No further action is necessary at this time.

Rejection under 35 U.S.C. §112, second paragraph

Claims 12-16 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

In response, the Applicants have made the following changes:

- “Integrity between” has been changed to read “bonded to” in claim 12. This wording is fully disclosed in Example (3) on page 25, line 2, of the specification, which states that “surfaces of the layers were bonded together”. The Applicants are of the opinion that “integrity between” and “bonded to” confer essentially the same meaning. Accordingly, this amendment does not represent any change in the substance of what is being claimed by the Applicants.
- The Examiner asserts that the present invention discloses only one intermediate layer. This is not the case, as is disclosed on page 21, lines 17-19, of the specification. The Examiner will note that in this Amendment, the Applicants

have changed the wording of claim 12 to read “at least one intermediate layer” to eliminate any confusion about what is being claimed.

- The word “colour” has been added before the word “tone” in claims 13 and 15.

This wording is fully disclosed on page 21, line 10, of the specification.

In view of the above amendments and remarks, the rejection under 35 U.S.C. §112, second paragraph, has been overcome. It is respectfully requested that the rejection be reconsidered and withdrawn.

Rejections under 35 U.S.C. § 102(a) and §103(a)

Claims 12-14 stand rejected under 35 U.S.C. §102(a) as anticipated by the recipe for cheese terrine published in the Fresno Bee. Further, claims 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over this same publication. These rejections are respectfully traversed.

The present invention as set forth in instantly amended independent claim 12 is directed to a laminated cheese food having a combination of elements including two external layers of platy food material containing cheese, and having releasability from external layers of adjoining laminated cheese foods when piled, and at least one intermediate layer of platy food material. Further, each of the at least one intermediate layer is bonded to others of the at least one intermediate layer, and the at least one intermediate layer is disposed between and bonded to the two external layers of platy food material, thus forming a multilayer structure which is releasable from adjoining multilayer structures.

As illustrated in FIG. 7, each laminated cheese food t1, t2 of the present invention is a multilayer food having at least three layers: external layers A, B, and one or more intermediate layers c.

According to the present invention, a certain number of laminated cheese foods t1, t2 are piled and wrapped so as to constitute laminated cheese food t.

Of the plural layers A, B, C, the external layers A, B of one food t1 are releasable from the external layers A, B, of the adjoining food t2, while the intermediate layer C of one food t1 is integral to the external layers A, B.

Therefore, one food t2 in which the external layers A, B and the intermediate layer C are tightly combined is easily released from the adjoining foods t1 and 53. These features are fully disclosed at page 20 and 21 of the specification.

By contrast, the Fresno Bee recipe teaches a different food. As best understood by the Applicants, the Fresno Bee recipe teaches a multilayer food with external layers of cheddar cheese, and alternating internal layers of cream cheese and cheddar cheese. The Applicants respectfully submit that nowhere in the Fresno Bee disclosure is there any teaching or suggestion that external layer must bond with internal layers, or that external layers must be releasable from adjoining external layers

In the Office Action, the Examiner asserts that the Fresno Bee recipe teaches "since the external layers are sliced cheddar cheese, it is clear it can be removed from the intermediate layers". If this is, in fact, the case, the Fresno Bee recipe teaches against the present invention. In the present invention, the intermediate layer has integrity with, or in

other words, is bonded to the external layers. The Fresno Bee recipe fails to teach this. The Applicants respectfully submit that they can find no teaching or suggestion of whether or not the external layers are bonded or not bonded to the intermediate layers.

In addition, nowhere in the Fresno Bee recipe is there any teaching of external layers being releasable from one another, as is an explicit objective and teaching of the present invention. In the Fresno Bee recipe, there is no teaching of piling the multilayer food of the recipe one upon another. In fact, the recipe calls for tightly wrapping a single multilayer food in a foil wrapper, so it would be impossible for one external layer to adjoin another external layer. If in fact, the multilayer food of the Fresno Bee were to be piled one atop the other, the Applicants respectfully submit it would be mere speculation by the Examiner to assume whether the external layers, if adjoined, would release from each other, or whether an external layer would release from an intermediate layer, or what other outcome may result.

In summary, the Applicants respectfully submit, that the food of the Fresno Bee recipe is never subject to conditions of the present invention where bonding between some elements and releasability between others is of significance. Accordingly, there is no teaching or suggestion in the Fresno Bee the novel combination of elements to which the present invention is directed.

Accordingly, the Examiner's rejection under 35 U.S.C. §102 has been overcome. Independent claim 12 is now in condition for allowance.

Dependent claims 13-15, including claims 14 and 15 which stand rejected under 35 U.S.C. §103(a), are now allowable also due to their dependence on allowable claim 12, as

well as for the additional novel limitations contained therein. Therefore, the Applicants respectfully submit that all claims of the present application should now be deemed allowable.

CONCLUSION

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

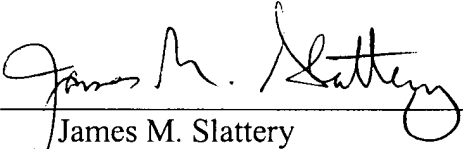
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, she is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for

any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
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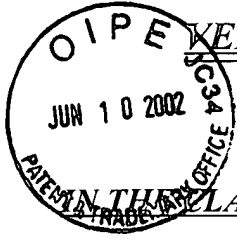
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

CLAIMS:

Please **cancel claims 1-11** without prejudice or disclaimer.

Please **amend claims 12-15** as follows:

12. (Amended) A laminated cheese food produced by platy food materials being piled to form a multilayer structure [consisting of] having at least three layers, comprising:

[and of the multilayer structure, the]

two external layers [consisting] of platy food [materials] material containing cheese, and having releasability from [the] external layers of adjoining laminated cheese foods when piled[, while the intermediate layer consisting of a platy food material having integrity with the platy food material in the external layers, and if necessary, integrity between the platy food materials in the intermediate layers]; and

at least one intermediate layer of platy food material, wherein each of the at least one intermediate layer is bonded to others of the at least one intermediate layer, and the at least one intermediate layer is disposed between and bonded to the two external layers of platy food material, thus forming the multilayer structure which is releasable from adjoining multilayer structures.

13. (Amended) The laminated cheese food according to Claim 12, wherein the platy food [materials] material in the at least one intermediate layer is cheese different from the cheese contained in the platy food [materials] material in the external layers in type or colour tone, or is cheese having higher maturity, more water or fat, thus [is] being softer, or having lower pH, than the cheese contained in the platy food materials in the external layers.

14. (Twice Amended) The laminated cheese food according to Claim 12, wherein the platy food materials in the at least one intermediate layer contain foods other than cheese which are in a liquid, paste, powdery, solid, or fibrous state.

15. (Twice Amended) The laminated cheese food according to Claim 12, wherein the platy food materials in at least one of the external layers or the at least one intermediate layer contain additives or raw materials for adjusting colour tone, and the colour tones of the platy food materials in the external layers or the at least one intermediate layer are the same or different.